

Message Text

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ACTION EB-08

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UNCLAS TEHRAN 1058

E.O. 11652: N/A

TAGS: EAGR EBAK BEXP IR

SUBJ: DEMURRAGE CLAIMS - FOREIGN TRANSACTION COMPANY

REF A 76 TEHRAN 12040 B. TEHRAN 222 C. STATE 13850

1. CHARGE, ECONOMIC COUNSELOR AND AGRICULTURAL ATTACHE MET FEB 1 WITH MINISTER OF COMMERCE TASLIMI AND FOREIGN TRANSACTIONS CO. (FTC) GENERAL DIRECTOR AZMOUDEH TO URGE SETTLEMENT OF OUTSTANDING DEMURRAGE CLAIMS. CHARGE DREW UPON POINTS MADE REFTEL C, NOTING THAT CONTINUED NON-RESOLUTION OF CASE WAS BECOMING IRRITANT IN U.S.-IRANIAN COMMERCIAL RELATIONS. HE INQUIRED OF MINISTER IF RICE MILLERS ASSOCIATION'S (RMA) CLAIMS COULD BE RE-EXAMINED WITH A VIEW TO NARROWING GAP BETWEEN TWO PARTIES.

2. MINISTER REPLIED THAT HE WAS WELL AWARE OF THESE DEMURRAGE CLAIMS AND SAID THAT FTC HAD ENGAGED IN A MAJOR EFFORT TO EXAMINE DOCUMENTATION SUBMITTED SUPPORTING THE INDIVIDUAL CLAIMS. THE FACT OF THE MATTER WAS, HE SAID, WHOLE QUESTION OF DEMURRAGE CLAIMS OF COMMODITY SHIPMENTS TO IRAN (NOT NECESSARILY RICE SHIPMENTS FROM U.S. ALONE MARKED BY SOME "IRREGULARITIES" AND FTC HAD TO PROCEED VERY CAUTIOUSLY BEFORE MAKING PAYMENT. HE SAID THAT THE IMPERIAL INSPECTORATE VISITED HIS MINISTRY WITH INCREASINGLY REGULARITY, ASKING FOR JUSTIFICATION OF VARIOUS

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PAYMENTS MADE. HE STATED THAT HE, TOO, MUCH VALUED U.S.-IRANIAN TRADE RELATIONSHIPS IN THE COMMODITY FIELD. AZMOUDEH ECHOED MINISTER'S OBSERVATIONS ON DUBIOUS VALUE OF SUBSTANTIATING DOCUMENTS, CITING SEVERAL EXAMPLES. FOR INSTANCE, ONE U.S. COMPANY WAS CLAIMING DEMURRAGE PAYMENTS OF \$24,500 PER DAY FOR PERIOD OF SEVERAL WEEKS; AZMOUDEH DOUBTED VERY MUCH THAT ANY SUCH SUM WAS EVER PAID TO THE OWNER OF VESSEL IN QUESTION. AZMOUDEH

CITED ANOTHER EXAMPLE OF AN INCOMPLETE CERTIFICATION FROM SOME AUTHORITY IN THE STATE OF CONNECTICUT. FINALLY, MAJOR PROBLEM PERSISTED IN CASES OF PARTIAL CHARTER PARTIES WHEREIN SEVERAL EXPORTERS SHIPPED ON ONE VESSEL, EACH CLAIMING THE FULL DEMURRAGE. AZMOUDEH SAID IT WAS OUT OF THE QUESTION FOR IRAN TO HONOR SUCH CLAIMS. AZMOUDEH SAID TWO RICE SHIPPER MEMBERS OF RMA, WHO ASKED THAT THEIR NAMES NOT BE REVEALED, HAVE ALREADY ACCEPTED FTC'S COMPROMISE OFFER.

3. MINISTER AND AZMOUDEH NOT OPPOSED TO INTERNATIONAL ARBITRATION, BUT SEE NO NECESSITY SUCH ACTION OR ANYTHING TO BE GAINED ON PART OF SHIPPERS. THEY CALCULATED THAT PAYMENT OFFERED OF \$6,150,000 IS FAVORABLE SETTLEMENT ON \$10,160,000 CLAIMED.

4. FOLLOWING THEIR RECAPITULATION OF GOI'S REVIEW OF THESE CLAIMS, AND AFTER SOME PROMPTING BY EMBOFFS, MINISTER AND AZMOUDEH THEN SUGGESTED FOLLOWING FORMULA TOWARDS THE RESOLUTION OF THE MATTER: (1) INDIVIDUAL SHIPPERS WOULD ACCEPT COMPROMISE OFFER MADE BY FTC; (2) FTC WOULD NOT RPT NOT INSIST UPON QUIT-CLAIM RECEIPTS FROM SHIPPERS--I.E., ACCEPTANCE OF COMPROMISE OFFER WOULD NOT BE PREJUDICIAL TO SUBSEQUENT NEGOTIATION ON PORTION OF CLAIM NOT PAID BY FTC; AND (3) IF INDIVIDUAL SHIPPERS COULD SHOW FULL CHARTER PARTY DOCUMENTS, LEGITIMATE EVIDENCE THAT DEMURRAGE CLAIMED WAS FOR RICE SHIPPED ONLY TO IRAN AND NOT TO SOME OTHER PERSIAN GULF COUNTRY AND COULD SHOW POSITIVE PROOF THAT DEMURRAGE CLAIM WAS ACTUALLY PAID TO SHIP OWNERS, THEN FTC WOULD PAY FULL AMOUNT CLAIMED. MINISTER, AT LATER POINT IN CONVERSATION, EMPHASIZED THAT GOI WOULD BE HAPPY TO SETTLE ON THIS BASIS.

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5. CONCERNING REFTEL C, AGATT ALSO RAISED MATTER OF GOLADETZ SUGAR DEMURRAGE CLAIM, URGING THAT CONSIDERATION OF LATE PAYMENT INTEREST BE INCLUDED IN OFFER. MINISTER WILL CONSIDER BUT MADE NO COMMITMENT.

6. MEETING WAS CONDUCTED IN CORDIAL ATMOSPHERE AND WE HAVE NO REASON TO DOUBT GOI'S WILLINGNESS TO MAKE FULL SETTLEMENT PROVIDED DOCUMENTATION IS IN ORDER. IT SEEMS CLEAR, HOWEVER, THAT GOI WILL CONTINUE TO BE A STICKLER ON ADEQUACY OF DOCUMENTATION. EVIDENTLY, THERE IS CONSIDERABLE AREA DISPUTE BETWEEN THE PARTIES AS TO WHAT CONSTITUTES ADEQUATE DOCUMENTATION, AND EMBASSY SIMPLY DOES NOT KNOW WHO HAS THE BETTER CASE RE DISPUTED DOCUMENTATION IN THE INDIVIDUAL CLAIMS. EMBASSY, OF COURSE, HAS NO EXPERTISE IN EVALUATING DOCUMENTATION ON DEMURRAGE CLAIMS AND WILL BE IN NO POSITION TO ARBITRATE DISPUTED DOCUMENTS OR OTHERWISE EXPRESS AN AUTHORITATIVE OPINION ON THE MERITS OF EITHER SIDE. IF RMA UNWILLING TO PROCEED ALONG LINES OF FORMULA GIVEN IN PARAGRAPH FOUR ABOVE,

THEN EMBASSY CAN ONLY SUGGEST RESORT TO WHATEVER ARBITRATION
PROVIDED FOR IN INDIVIDUAL CONTRACTS OR LEGAL ACTION.
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Decaption Note:
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Disposition Case Number: n/a
Disposition Comment:
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Secure: OPEN
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Subject: DEMURRAGE CLAIMS - FOREIGN TRANSACTION COMPANY
TAGS: EAGR, BBAK, BEXP, IR, FOREIGN TRANSACTION CO
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